

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,
Plaintiff/Respondent
v.
Samuel Ontiveros,
Defendant/Petitioner

2:13-cr-00223-JAD-PAL

**Order Lifting Stay and Denying
Motion to Vacate Sentence
under 28 U.S.C. § 2255**

[ECF Nos. 48, 49]

Petitioner moves for habeas relief under 28 U.S.C. § 2255(a), arguing that the enhancement of his sentence under U.S. Sentencing Guidelines Manual §§ 4B1.2 and 2K2.1 violated his due-process right because the provision's residual clause is void for vagueness.¹ I stayed this petition in anticipation of the United States Supreme Court's decision in *Beckles v. United States*.² The *Beckles* decision, issued today, squarely defeats petitioner's claim: the High Court held that "the advisory Sentencing Guidelines are not subject to a vagueness challenge under the Due Process Clause."³

In light of *Beckles*, the **STAY IS LIFTED**, and petitioner's motion to vacate his sentence under 28 U.S.C. § 2255 **[ECF Nos. 48, 49] is DENIED**.

Dated March 6, 2017


Jennifer A. Dorsey
United States District Judge

¹ ECF Nos. 48, 49.

² ECF No. 50.

³ *Beckles v. United States*, Case No. 15-8544, 580 U.S. ___, slip op. at 10 (Mar. 6, 2017).